

9-9-03

Agl2154 \$
2700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

First-Named Inventor: SHTEYN, Eugene
Application No.: 09/433,257 Conf.:
Date Filed: 11/04/1999
Customer No.: 24738

Atty Docket No.: PHA 23-782
Art Unit: 2154
Examiner: Wen Tai Lin

Title: Partitioning Of MP3 Content File For Emulating Streaming

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

SEP 15 2003

Technology Center 2100

**TRANSMITTAL OF
BRIEF IN SUPPORT OF AN APPEAL**

Sir:

Enclosed is an original plus two copies of an Appeal Brief in the above-identified patent application.

Please charge the any and all required fees to Deposit Account No. 14-1270.

Date: 9/8/03

Respectfully submitted,
PHILIPS ELECTRONICS NORTH AMERICAN CORP.

By


Michael J. Ure Reg. No. 33,089
1109 McKay Drive, M/S-41SJ
San Jose, California 95131
(408) 474-9077

CERTIFICATE OF MAILING or TRANSMISSION

I hereby certify that this correspondence is being:
 deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to "Commissioner for Patents, Washington, D.C. 20231",
 -OR-
 facsimile transmitted to the USPTO, on the date indicated below.

(Date) 09.08.2003

(Signature)
(Name)

Daniel L. Michalek

I HEREBY CERTIFY THAT THE CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAILSTOP APPEAL BRIEF, ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS, P.O. BOX 1450, ALEXANDRIA, VA, 22313-1450, ON: *AFR*

Date: _____ By: _____

PATENT
Attorney's Docket No. PHA 23.782

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

SHTEYN

Application No.: 09/433,257

Filed: 11/04/1999

For: PARTITIONING OF MP3 CONTENT
FILE FOR EMULATING STREAM-
ING

Group Art Unit: 2154

Examiner: Wen Tai Lin

Appeal No. _____

RECEIVED

SEP 15 2003

Technology Center 2100

BRIEF FOR APPELLANT

Mailstop APPEAL BRIEF
Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This appeal is from the decision of the Primary Examiner dated 04/07/2003, finally rejecting claims 2-6 and 12-22, which are reproduced as an Appendix to this brief.

The Commissioner is authorized to charge the fee of \$320, and any other fees that may be required by this paper, to Deposit Account No. 14-1270.

04/17/2003 10AM101 00000062 141270 09423257

14-1270-1450 320.00 IA

(1) Real Party in Interest

The real party in interest is the assignee, Philips Electronics North America Corporation.

(2) Related Appeals or Interferences

Applicant is not aware of any related appeals or interferences.

(3) Status of Claims

Claims 2-6 and 12-22 remain pending in the present application. All claims have been finally rejected and all claims are on appeal.

(4) Status of Amendments

All amendments have been entered. No amendment after final has been submitted.

(5) Summary of the Invention

The present invention relates to a flexible, client-driven method of media retrieval and presentation, as well as an intelligent client device for carrying out such method. In an exemplary embodiment, the method uses a parseable control information file such as an XML file. Media retrieval and presentation begins with retrieval and parsing of the control information file. A control script is then run by an XML interpreter, using output from the XML parser. In general, the control script retrieves files, or segments of the media presentation, from one or more servers in a computer network for sequential playout. Insofar as the particulars of which files are retrieved, when and from where, however, the control

script offers great flexibility. For example, two or more alternative files may be provided corresponding to the same section of a media presentation, with the client device selecting between the alternatives based on device capability, for example, or network conditions, or other considerations.

(6) The References

The rejections are based on Cohen, U.S. Patent 5,751,968. Those claims not rejected based solely on Cohen have been rejected based on Cohen in view of Giradot, "Efficient Representation and Streaming of XML Content Over the Internet Medium."

Cohen teaches a client/server content streaming system. On the server side, the server forms from a multi-media presentation segment data files. On the client side, an interactive display application (i.e., player software) receives the files from the server and displays the multi-media presentation.

Giradot describes a system for efficient encoding and streaming of XML content. Giradot, however, is not prior art with respect to the present application.

(7) The Rejections

In the Final Rejection of April 7, 2003, claims 4-6, 14, 17 and 20 were rejected under 35 USC 102(b) as being anticipated by Cohen. The rejection states in part:

Cohen taught the invention as claimed including ... the client device parsing the control information file [58, Fig. 5; note that parsing is an inherent function of a browser]....

Claims 2 and 3 were rejected as being unpatentable over the Cohen. With respect to these claims, the Office Action admits that Cohen does not teach or suggest the features of these claims but takes official notice that the recited features are well-known.

Claims 12, 13, 15, 16, 18, 19, 21 and 22 were rejected as being unpatentable over Cohen in view of Giradot.

(8) Issues

The following issues are presented:

1. Whether claims 4-6, 14, 17 and 20 are anticipated by Cohen.
2. Whether claims 2 and 3 would have been obvious in view of Cohen.
3. Whether claims 12, 13, 15, 16, 18, 19, 21 and 22 would have been obvious from Cohen in view of Giradot.

(9) Argument

Addressing now the rejection under 35 USC 102 based on Cohen, the rejection states in part:

Cohen taught the invention as claimed including ... the client device parsing the control information file [58, Fig. 5; note that parsing is an inherent function of a browser]....

Applicant respectfully disagrees. As described in column 6 of Cohen, clicking a link associated with the “connection file” of a desired media presentation causes an interactive display application—i.e., a proprietary media player--to be activated. The media player knows *a priori* the format of the connection file, which therefore need not be parsed. The connection file and the media player must be updated, if at all, in lock-step. The resulting system is rigid and inflexible.

The connection file in Cohen is *not* received and acted upon by the browser, which Applicant agrees does perform parsing in order to render content. Rather, it is received and acted upon by the interactive display application, or media player.

Accordingly, claims 4-6, 14, 17 and 20 are not believed to be anticipated by Cohen.

Addressing now the obviousness rejection of claims 2 and 3, the Office Action admits that Cohen does not teach or suggest the features of these claims but takes official notice that the recited features are well-known. Applicant disagrees and respectfully requests that prior art addressing this point be cited. Nevertheless, claims 2 and 3 are believed to patentable at least for the same reasons as independent claim 14.

Finally, with respect to the rejection based on Cohen in view of Giradot, there is no indication in the record that Giradot was published earlier than the year 2000. The present application was filed 11/04/1999. Accordingly, Giradot is not prior art with respect to the present application.

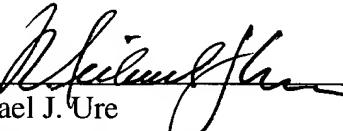
(10) CONCLUSION

PATENT
Attorney's Docket No. PHA 23.782
Page 6

For the foregoing reasons, claims 4-6, 14, 17 and 20 are not anticipated by Cohen, nor would claims 2 and 3 have been obvious in view of the same. Claims 12, 13, 15, 16, 18, 19, 21 and 22 would not have been obvious from Cohen in view of Giradot.

Applicant respectfully submits therefore that the Final Rejection should be REVERSED.

Respectfully submitted,

By: 
Michael J. Ure
Attorney for Applicant
Registration No. 33,089

Date: September 8, 2003

APPENDIX OF CLAIMS

2. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is determined by information about the client.
3. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is determined by information about the computer network.
4. The method of claim 14, wherein the media presentation comprises an audio presentation.
5. The method of claim 14, wherein the media presentation comprises a video presentation.
6. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files.
12. The device of claim 18, wherein:
 - the device interprets the control information to retrieve multiple files from the computer network for sequential play-out.
13. The device of claim 12, wherein:
 - the means for parsing comprises an XML parser; and
 - the means for retrieving and using comprises an XML interpreter.
14. A method of, at a client device, forming a media presentation from multiple related

files, including a control information file, stored on one or more server computers within a computer network, the method comprising:

downloading the control information file to the client device;
the client device parsing the control information file; and
based on parsing of the control information file, the client device:
retrieving a first file and using contents of the first file to begin a media presentation;
concurrent with the media presentation, retrieving a next file; and
using content of the next file to continue the media presentation.

15. The method of claim 14 wherein the control information file is an XML file.

16. The method of claim 15, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, further comprising selecting and retrieving one of the multiple alternative files.

17. A method of storing media presentation information within a computer network including multiple server computers, the method comprising:

storing on a server computer a control information file of a format to be parsed by a client device; and

storing on one or more server computers multiple related files accessible by the client device to, based on parsing of the control information file, form a media presentation from the multiple related files.

18. The method of claim 17, wherein the control information file is an XML file.

19. The method of claim 18, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation.
20. A client device for forming a media presentation from multiple related files stored on server computers within a computer network, comprising:
 - means for downloading files to the client device;
 - means for parsing a control information file; and
 - means for, based on parsing of the control information file:
 - retrieving a first file and using contents of the first file to begin a media presentation;
 - concurrent with the media presentation, retrieving a next file; and
 - using content of the next file to continue the media presentation.
21. The method of claim 20, wherein the control information file is an XML file.
22. The method of claim 21, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, the means for retrieving comprising means for selecting and retrieving one of the multiple alternative files.